

No. 82-1186

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ALEXANDER E. STEVENS,  
CLERK

IN THE  
**Supreme Court of the United States**

OCTOBER TERM, 1982

TRANS WORLD AIRLINES, INC.,  
v. *Petitioner,*

FRANKLIN MINT CORPORATION, FRANKLIN MINT LIMITED  
and MCGREGOR, SWIRE AIR SERVICES LIMITED,  
*Respondents,*

INTERNATIONAL AIR TRANSPORT ASSOCIATION AND  
FORTY-THREE OF ITS MEMBER AIRLINES (SEE APPENDIX I)  
*Potential Intervenors.*

**SUPPLEMENTAL MEMORANDUM  
OF POTENTIAL INTERVENORS**

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Member Airlines  
(see Appendix I)*

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March 14, 1983

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**SUPPLEMENTAL MEMORANDUM  
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Potential intervenors, International Air Transport Association and forty-three of its member airlines, file this Supplemental Memorandum to inform this Court of an event subsequent to the time their petition to intervene and for writ of certiorari was filed.

On March 8, 1983, the United States Senate failed to obtain by a required two-thirds majority, by a vote of 50 yeas, 42 nays in favor of ratification, the Montreal Protocols 3 and 4. After the vote was taken, the Majority Leader moved for reconsideration, and consequently the matter remains on the Senate Calendar. 129 Cong. Rec. S2279 (daily ed. March 8, 1983). As noted in our Petition (pp. 8-9), these Protocols were designed to amend the Warsaw Convention by substituting the SDR as a unit of conversion for Poincare francs in Article 22(4), re-

vising upward passenger liability limits and permitting each nation to supplement the Convention limits with a compensation plan. The United States, through the Executive Branch, participated in the formulation of these Protocols and signed them. They were forwarded to the United States Senate for advice and consent on January 14, 1977. *See* S. Exec. Rep. No. 45, 97th Cong., 1st Sess., at 3-7 (1981).

This disagreement between the political branches of the United States Government emphasizes the inappropriateness of the Second Circuit's judicial intervention into this country's continuing relationship with the other signatories of the Warsaw Convention. The Senate's action does not affect the viability of the Warsaw Convention, nor of any specific provision thereof. Therefore, it remains the law of the land. Any current differences between the Executive and the Senate must be resolved without interference from the Judicial Branch.

This development also emphasizes the interest of the petitioners, and in many cases their governments, in ensuring that the normal Warsaw Convention procedures remain in effect (Petition to Intervene, pp. 11-14).

Respectfully submitted,

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